

REMARKS/ARGUMENTS

This Amendment and a Request for Continued Examination under 37 C.F.R. 1.114 is submitted in response to the Office Action mailed December 7, 2009. Claims 1-50 are pending in the application. In the Office Action, Claims 1-12, 15, 16, 18, 19, 23-32, 35, 36, 38, 39 and 43-49 were rejected (a) on the ground of nonstatutory obviousness-type double patenting in view of claims 1-38 of U.S. Patent No. 7,527,644 to Mangiardi et al (hereinafter "Mangiardi"); (b) under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 7,547,321 to Silvestri et al. (hereinafter "Silvestri"); and (c) under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,106,548 to Roubin et al. (hereinafter "Roubin"). Claims 13, 14, 17, 20, 21, 33, 34, 37, 40-42 and 50 were previously withdrawn as being directed to a non-elected invention.

By this Amendment, claims 1, 43 and 49 have been amended. Exemplary support for the amended claims can be found in the specification at paragraph 51 and in Figure 13. No new matter has been added by way of this amendment. Accordingly, claims 1-12, 15, 16, 18, 19, 23-32, 35, 36, 38, 39 and 43-49 are presented for reconsideration by the Examiner.

Nonstatutory Obviousness-Type Double Patenting

In the Office Action, the Examiner rejected claims 1-12, 15, 16, 18, 19, 23-32, 35, 36, 38, 39 and 43-49 on the ground of nonstatutory obviousness-type double patenting in view of Mangiardi.

Enclosed with this response is a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c). Applicants, therefore, respectfully request withdrawal of this rejection.

35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected claims 1-12, 15, 16, 18, 19, 23-32, 35, 36, 38, 39 and 43-49 under 35 U.S.C. § 102(e) as anticipated by Silverstri. By this Amendment, claims 1, 43 and 49 have been amended to provided that the substantially cone-shaped member's distal end has an internal diameter larger than that of the

proximal end but less than the greatest internal diameter of the cone-shaped member. Applicants respectfully submit that Silvestri does not disclose a substantially cone-shaped member with a distal end that has an internal diameter larger than that of the proximal end but less than the greatest internal diameter of the cone-shaped member. Furthermore, Applicants note that the present application and Silvestri were/are commonly owned and would not qualify as prior art for obviousness purposes under 35 U.S.C. §103(c).

Accordingly, Applicants respectfully submit that the claimed invention is not anticipated by Silvestri. Applicants, therefore, respectfully request withdrawal of this rejection.

35 U.S.C. § 102(b)

In the Office Action, the Examiner rejected claims 1-12, 15, 16, 18, 19, 23-32, 35, 36, 38, 39 and 43-49 under 35 U.S.C. § 102(b) as anticipated by Roubin. By this Amendment, claims 1, 43 and 49 have been amended to provided that the substantially cone-shaped member's distal end has an internal diameter larger than that of the proximal end but less than the greatest internal diameter of the cone-shaped member. Applicants respectfully submit that Roubin does not disclose a substantially cone-shaped member with a distal end that has an internal diameter larger than that of the proximal end but less than the greatest internal diameter of the cone-shaped member. Applicants further submit that Roubin does not disclose any motivation for persons of skill in the art to provide a substantially cone-shaped member with a distal end that has an internal diameter larger than that of the proximal end but less than the greatest internal diameter of the cone-shaped member.

Accordingly, Applicants respectfully submit that the claimed invention is not anticipated by Roubin. Applicants, therefore, respectfully request withdrawal of this rejection.

CONCLUSION

Applicants respectfully assert that claims 1-12, 15, 16, 18, 19, 23-32, 35, 36, 38, 39 and 43-49 are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including any extension of time fees, to Deposit Account No. 50-2375, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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